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Performance Based Service Acquisition

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Performance Based Service Acquisition? What is it?

- Most importantly:
  - It is the manner in which the SOW describes the objective of the contract;
  - It is linking contractor payment or reward to the objectively measured quality of contractor performance;
  - It is moving Government contract structures away from cost reimbursement and labor-hour types and toward firm fixed price types;

What is Performance Based Service Acquisition?

- Most importantly:
  - It is the Government's recognition of the contractor's ability to manage the work and to perform efficiently;
- Oh, by the way:
  - It is not new;
  - It is not easy for the Government to do;
  - It is not quick to get on contract.

What is Performance Based Service Acquisition?

- It is not a contract type;
- It is not a set of PBSA contract clauses;
- It is an acquisition strategy, an attitude, a philosophy that makes good business sense in many instances.

Why is PBSA Important to the Government?

- Federal spending on acquisition of services has increased annually since 1997;
- Service contracting in 1997= $77 Billion
- Service contracting in 2000= $87 Billion
- In DOD Service contracting increased from $61.7 B in 1992 to $92.9 B in 2002
- DOD FY 2002 54% of spending on Services

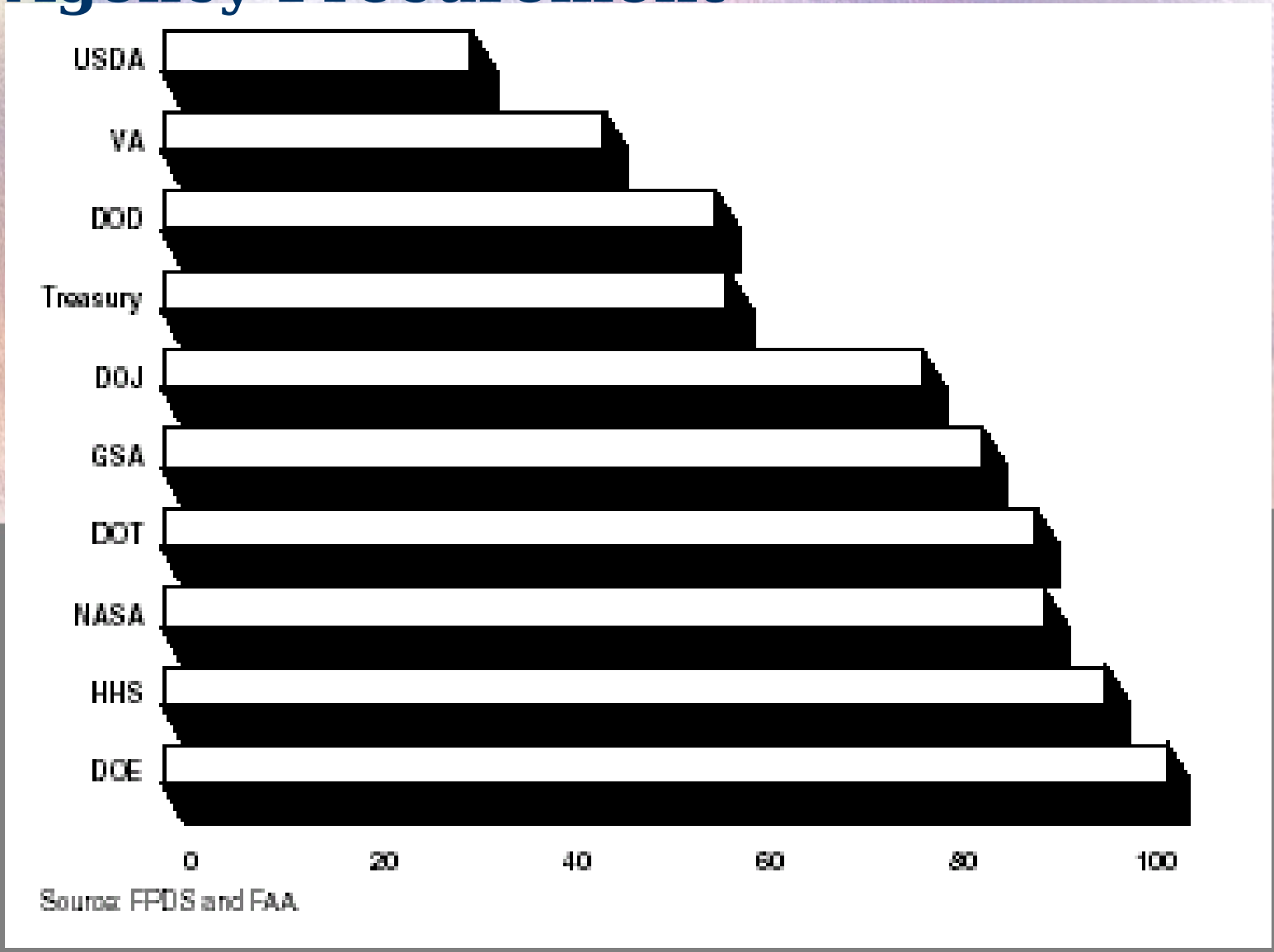
Why is PBSA Important to the Government?

- P, A & M service contracting has increased from $12.3 B to $21.1 B since 1990
- DOD P, A & M contracting increased from $6.7B to $14.4 B from 1992 to 2002
- DOD spent more on Code-R than any other category of services

Why is PBSA Important to the Government?

- Service contracting now represents more than 60% of contract spending Government-wide
- 2001: $81 B Supplies, $145 B Services on contracts greater than $25,000
- DOD IG (30 Oct 2003) “The Government often guarantees a profit (sic) by paying contractors on a cost reimbursable basis.”

Service Acquisition as a Percentage of Agency Procurement



Why is PBA Important to the Government?

- Increase in Service contracting was accompanied by a 21+% decrease in federal workforce
- DoD IG reports indicate DoD Acquisition workforce halved while workload increased 12%
- Since 1997 Government-wide Acquisition workforce decreased 5% while contract actions greater than $25,000 increased 26% (GAO-03-716T April 2003)
- Efficiency gains from streamlined acquisition methods have not matched workforce reductions as planned. (GAO-01-753T May 2001)

Why is PBSA important to the Government?

- **OFPP views Performance Based Contracting as a major tool in addressing the challenges**
- **GAO testimony to Congress: PBSA is Agencies' primary tool for correcting problems in service acquisitions.**

Is PBSA Important?

FY2002 National Defense Authorization Act

Requires reduction in spending for same amount of services:

2003 = 4% savings

2004 = 5% savings

2011 = 10% savings

Performance Based Service Acquisitions

- OFPP Policy is clear: performance based service acquisition is the preferred method of service acquisition.
- OFPP Policy letter 91-2
- FAR 37.102 & 37.6
- USD(A, T & L) Memorandum of 5 April 2000

PBSA POLICY-OFPP LTR 91-2

- Dated April 9, 1991
- Response to several unfavorable reviews of service contracting in Government
- Recognizes inappropriate contracting methods resulted in unsatisfactory performance and contract administration problems

OFPP LTR 91-2 PROBLEMS

- GAO reports, OFPP studies, and internal audits identified problems with Government service contracting:
  - Vague statements of work,
  - Insufficient use of firm pricing arrangements,
  - Lack of quantifiable performance standards,
  - Inadequate performance surveillance

OFPP Policy Letter 91-2 Policy

- Agencies must use PBC methods to "maximum extent practicable;"
- Agencies must select acquisition and contract admin. Strategies that accommodate the requirements;
- Agencies must justify the use of other than PBC methods & document the file.

OFPP Policy Letter 91-2

- **Policy Letter identifies PBC methods:**
  - Agencies shall describe requirements in terms of “what” not “how;”
  - Agencies shall develop formal, measurable performance standards and surveillance plans to facilitate assessment of contractor performance;
  - When performance quality enhances the agency’s mission accomplishment, use “best value” source selection procedures

OFPP Letter 91-2 continued

- PBSA methods identified in 91-2:
  - Use contract types that are most likely to motivate the contractor and that are appropriate for the requirement;
  - Fixed price contracts are preferred over cost type contracts;
  - Follow-on contracts should further PBC effort;
  - Positive and negative performance incentives should be used when appropriate.

PBSA and FAR Part 37

- **Implements OFPP Policy and PL 106-398**
  - "Performance based contracting is the preferred method for acquiring services;"
  - PBC methods should be used to the "maximum extent practicable" except for:
    - **A&E Services, Construction, Utility services, and services incidental to supply purchases**
  - Fixed price contract & Task orders preferred.

FAR Part 37

- **FAR 37.103 states:**
  - "The Contracting Officer shall … ensure that performance based contracting methods are used to the maximum extent practicable when acquiring services."
- Although FAR places the responsibility to ensure PBSA is used, effective use is a team effort.

FAR 37.601

- PBSA methods are intended to ensure required performance quality levels are achieved and that total payment is related to the degree that services performed meet contract standards.
- PBSA is: requirements in terms of results, measurable performance standards and QA surveillance plans, fee or price reductions, and performance incentives when appropriate.

FAR 37.602 Elements of PBSA

- All the elements called out in OFPP letter 91-2:
  - Statement of Work
  - Quality Assurance Surveillance Plan
  - Best Value Source Selection, when appropriate
  - Appropriate Contract type
  - Follow-on acquisitions further PBC methods

Current Policy Perspective On PBSA

- USD (A, T & L) Memorandum dated 4/5/00 highlights the importance of PBSA
  - **Acquisition of services is an increasingly important aspect of DoD acquisitions**
  - **PBSA strategies are a tool to "maximize performance, innovation, and competition, often at a lower cost."**
  - **Establishes requirement of 50% of service acquisitions must be PBSA by 2005, measured in both dollars and actions.**

Long Standing Problems in Service Acquisitions

- GAO, as well as other oversight agencies recognize typical problems in Government Service Acquisitions:
  - Poor planning;
  - inadequately defined requirements;
  - insufficient price evaluation;
  - lax oversight of contractor performance

Typical Problems of Service Contracts

- Government service contracts have been plagued by problems that PBSA methods might avoid:
  - Cost Overruns
  - Performance Delays
  - Claims
  - Unsatisfied Customers
  - Assorted Performance problems

Why is PBSA Important to the Government?

- May 1998 OFPP Report on PBSC examined 26 service contracts from civilian and DOD activities with an aggregate value of $526 million
- Report is influential in shaping PBSA policy, and contained several findings
- “If applied across the board, agencies can realize a 15% savings”

Why is PBA Important to the Government?

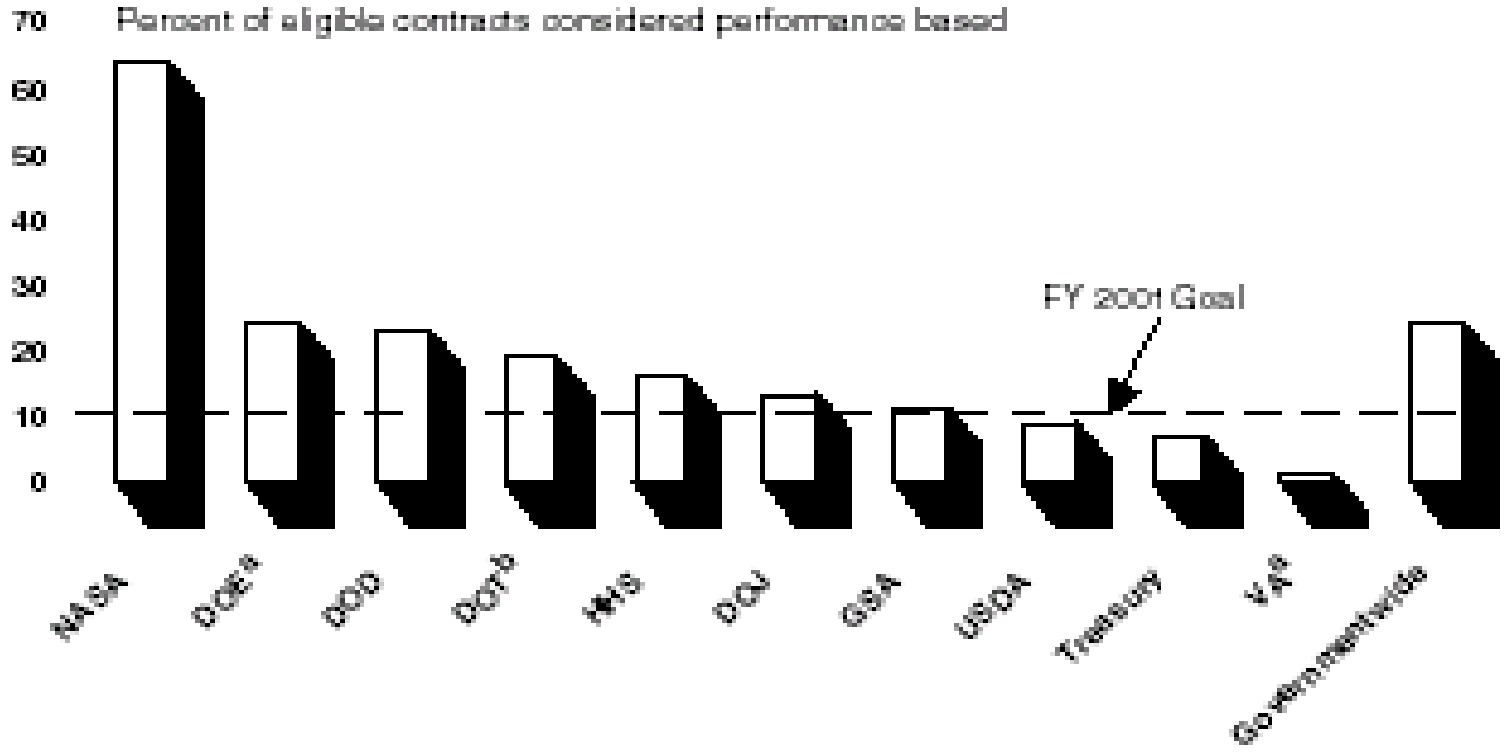
- Other findings of the OFPP Pilot Project:
  - Customer satisfaction increased 18% when contracts made performance based;
  - Depth of competition increased
  - udits decreased 93%

1991 to 2003

- PBSA has been a troublesome acquisition initiative since 1991 and the issuance of OFPP LTR 91-2
- The original goal was 10% of service contracts to be PBA
- 2000 saw the establishment of the 50% goal by 2005, OMB goal 2002= 20%
- Most agency are now working toward a goal higher than 50%
- DOD IG Report(D-2004-015) PBSA used on only 12 of 89 procurements reviewed (13.5%)

PBSA Performance

Figure 7: Performance-Based Service Contracting in Fiscal Year 2001 (by dollar value)



Source: FPDS.

Note: GAO analysis of data provided by FPDS for actions over $25,000.

Footnotes to Previous Slide

- DOE and VA officials state their internal reports indicate a much higher level of PBSA
  - DOE claims 77% by internal reports
  - VA claims 11% is more accurate
- DOT figures do not include FAA data

Problems with Implementing

- Originally there was reluctance from technical communities constraints in accomplishing objectives
- Lack of understanding of process
- Mis-information – PBSA will make SOW smaller
- Some viewed PBSA as a threat to jobs

Methods of Developing PWS

- Government develops PWS
  - Requirements Analysis
  - Performance Analysis
  - Workload Data
  - Surveillance Strategy
- Offerors propose PWS after SOO
  - Services
  - Performance Standards

Developing the PBC

- Development of the PBC is a IPT effort:
  - Customer focused
  - Multi-function
    - **Customer**
    - **Technical experts/Project manager**
    - **Contracting Officer/Contract Specialist**
    - **Quality Assurance/ Performance Assessment**
    - **Budget/Finance**
    - **Legal and Miscellaneous Others**

Statement of Objectives

- Conduct Market Research;
- Develop SOO and identify constraints;
- Conduct initial competition;
- Support Contractors during pre-proposal period;
- Conduct “best-value” source selection award process.

Statement of Objectives

- SOO alternative to SOW/PWS;
- Offerors propose PWS including performance standards;
- Government makes “best value” source selection;
- Benefits: Variety of proposed solutions;
- Liability: Increased time of “best value” source selection process.

Statement of Objectives

- SOO Process:
  - **Conduct market research;**
  - **Identify objectives and constraints;**
  - **Provide answers to offerors' questions and inquiries;**
  - **Conduct best value source selection;**
- May use use "Advisory Multi-step" process (FAR 15.202) to identify potential qualified vendors.

Statement of Objectives

- May not result in reduced timeliness of acquisition;
- May result in lower prices/cost savings of the actual contract;
- Advisory Multi-step decisions, may produce protests from unsuccessful offerors;
- Government relies on private industry to now what is best for meeting requirements.

OFPP Four Attributes of PBSA

- Describe requirements in terms of results not methods of performance
- Set measurable performance standards
- Describe evaluation of contractor performance in QASP
- Identify positive and negative incentives when appropriate

Easy to Say – Hard to Do

- When the whole PBSA “story” is considered PBSA can be explained:
  - Linking objectively measured contractor performance to Fee or Profit (Price)
  - Continuous improvement of PBSA use (“slouching toward nirvana”)
- If you can do the above, check the DD350 block

Steps to PBSA

- Job Analysis
  - WBS
    - Tasks
    - Constraints
    - Interfaces
- Performance Analysis
  - Performance Expectations
    - Quantity
    - Quality
    - Timeliness
    - Form

Steps to PBSA

- Incentive Analysis
  - Are Incentives Appropriate
    - Government Benefit for enhanced performance
    - Value of less than expected performance
    - Flexibly priced contracts include cost incentive
- Assessment/Measurement Analysis
  - How will performance be assessed
    - Who
    - How
    - When

How is PBA Different?

- Agencies should avoid Level-of – Effort (LOE) contracts, especially for routine services;
- Even when LOE is appropriate for initial work, follow-on effort should implement PBA methods;
- More contractor responsibility for satisfactory performance.

Notional LOE SOW

The contractor shall provide functional expertise to help the Agency's staff implement, test and deploy Phase V of the Agency's Electronic Commerce Center (E-CC).

This support will focus on continued enhancement and
maintenance of the E-CC, which includes the automated distribution of contract award documents to Industry.

Continued support shall also include establishing an interface between the E-CC and the Virtual Proposal Room (AE) and enhancing and

Notional LOE SOW

- **Estimated Level of Effort.**
- **Direct Labor (CLIN 0001):** Hours Rate Estimate
- Master IT Analyst 65 $150 $ 9750
- Journeyman IT Analyst 192 $120 $23040
- Apprentice IT Analyst 3 $100 $ 300
- Senior Technician 2 $ 95 $ 190
- Technical Writer 4 $ 90 $ 360
- Junior IT Analyst 3 $ 85 $ 255
- Journeyman Technician 64 $ 85 $ 5440
- Entry Level IT Trainee 70 $ 80 $ 5600
- Clerical 6 $ 75 $ 450
- **Total Hours** 409 $45385.

How is PBA Different?

- The Contractor shall test and deploy Phase V of the Agency's Electronic Commerce Center (E-CC). The contractor's testing shall be in compliance with the project test plan (see attachment J-XX) including submittal of all test reports required by the test plan;

How is PBA Different?

- The contractor shall submit an implementation plan to the Agency no later than 1 April XX for the agency's approval. The Contractor's plan shall accommodate the contractor's completing implementation of Phase V no later than 4 July XX. The contractor's plan shall describe the contractor's efforts for enhancing maintenance of the system.

How is PBA Different?

- Upon the Agency's approval of the Contractor's implementation plan, the contractor shall implement Phase V of the E-CC in accordance with the approved plan.

- Assuming that the above tasks are stated in a manner that will permit the contractor to assess its performance and cost risks of performing the tasks to satisfaction, the contractor will provide a fixed price for performing the work.

PBSA vs. Non-PBSA Benefits

- **PBSA**
  - **Reduced Government involvement**
  - **Stronger remedies for unsatisfactory effort**
  - **More competition**
  - **Perhaps lower contract prices**
  - **Improved customer satisfaction**
  - **Government pays for what it gets**
  - **Contractor must perform satisfactorily**
  - **Re-performance at contractor expense**
- **Non-PBSA**
  - **Quicker to get contractor working**
  - **More flexibility in problem solving efforts**
  - **Less initial Government effort in RFP preparation**
  - **Close Government - Contractor relationship inherent in LOE structure**

PBSA vs. Non-PBSA Liabilities

- **PBSA**
  - **Government must know what it wants**
  - **Government time to develop PWS**
  - **Government time to perform Best Value evaluation**
  - **Government effort to administer deductions and any incentive structures**
- **Non-PBSA**
  - **Government is buying time not performance**
  - **Government – Contractor relationship may evolve to personal services**
  - **Government may never know the reasonable price of work**
  - **Contractor's obligation is to provide labor hours or "best effort"**
  - **No guarantee of performance or delivery**
  - **Re-performance at Government expense**

Impediments to PBSA

- Many organizations are not organized to work in IPTs
- PBSA takes time to develop PWS
- Use of SOO may increase time to evaluate offers
- PBSA requires extensive workload data package
- Customer buy-in
- Management support
- Employee buy-in
- Inadequate training and guidance
- Short fused requirements

Contractor PBSA Concerns

- Difference in performance standards for same service
- Inspector concerns: personal bias, lack of experience, don't understand measuring process, not familiar with contract terms
- Overload of inspections vs # of inspectors
- Measuring: Ktr's proposed process differs from Govt's; metrics too broad and include outside influences not within Ktr's control

Contractor PBSA Incentive Concerns

- Multiple incentives may produce double penalties
- Contractor cannot re-perform after incentive assessed
- Unreasonable thresholds for earning incentives
- RFP response time doesn’t allow adequate analysis of incentives

PBSA Management Issues

- Disparity between functional manager and KO;
- QAE acting more as “supervisors” instead of performance assessors;
- Consistency in interpretation of contract terms;
- Inconsistency in CPARS;

PBSA Management Concerns

- Subjective Evaluation standards;
- Performance standards that match required performance outcomes
- Overzealous COTRs

What is Important?

- Contractors should be given more responsibility for performance:
  - Contractor should determine the best way to perform to the described standard;
- More fixed price contracts should reward contractor for efficient successful performance;

What is Important?

- Assessment should be based on defined, measurable standards;
- Government's remedies for unsatisfactory performance should be identified in contract.

What is Important?

- PBC requires Government to:
  - Have a clear understanding of requirements;
  - Have a clear understanding of standards;
  - Have a clear understanding of contractor's quality control processes;
  - Have a clear understanding of its own resources.

What is Important?

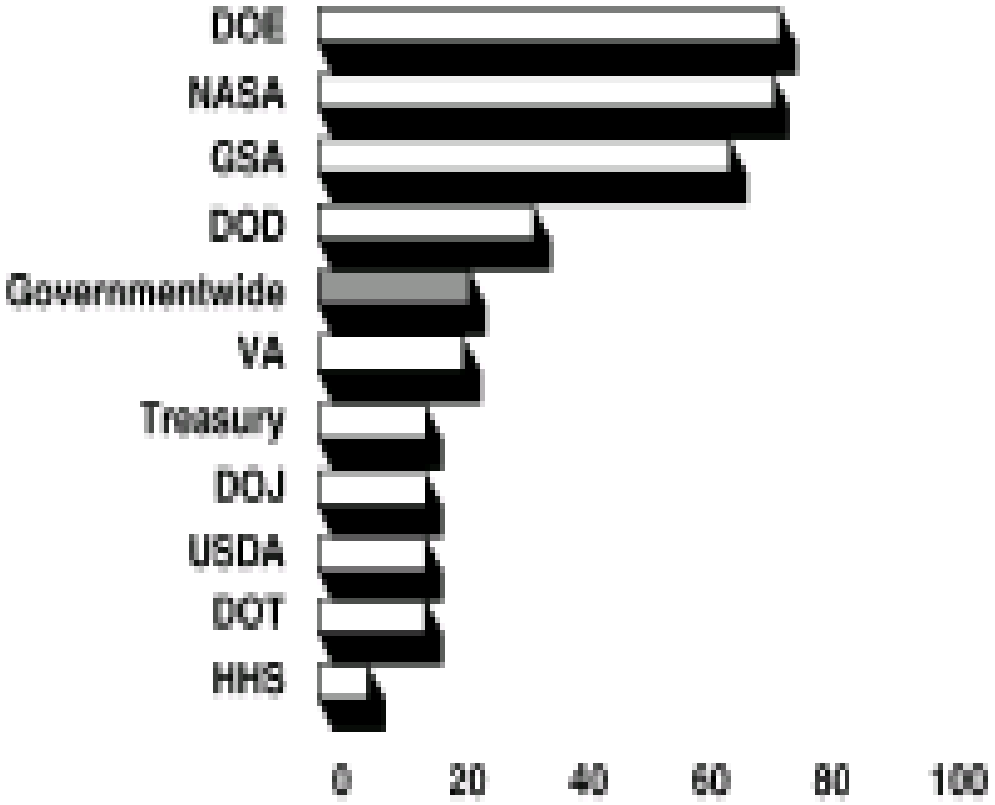
- Potential Problems:
  - Omitted requirements;
  - Inappropriate standards;
  - Incompatible assessment methods;
  - Inadequate workload estimates;
  - Inappropriate incentives;
  - COTR management.

Questions and Answers

- ***Don’t ask the question, if you can’t handle the answer!***

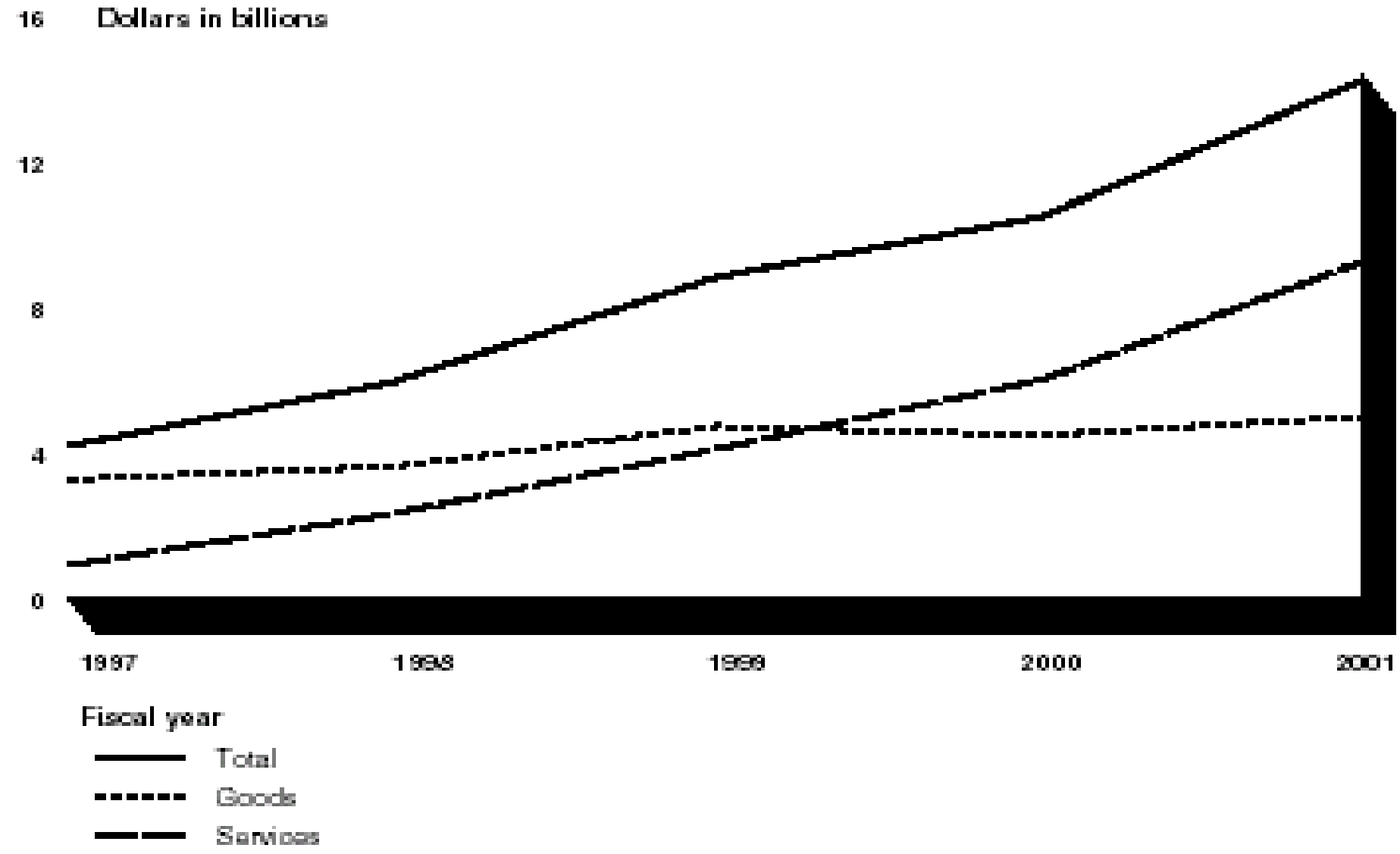
Government's Buying Activity

Acquisition of Goods and Services as a Percent of Agencies' Discretionary Budget Resources, Fiscal Year 2001



Source: FPDS, OMB, and FAA.

Use of Federal Supply Schedules



Use of FSS

Table 1: Agency Use of the Federal Supply Schedule Program

Agency	Fiscal year 1997	Fiscal year 2001	Change (percent)
DOD	$1,853	$6,489	250
GSA	498	4,274	758
VA[a]	783	668	-15
DOJ	234	470	101
Treasury	94	324	245
DOT	167	242	45
NASA	32	179	459
HHS	42	159	279
DOE	41	136	232
USDA	38	129	239
Governmentwide	4,324	14,436	234

Source: FPDS and FAA.

Use of Purchase Cards